

1 Mark E. Ellis # 127159
 2 Daniel D. McGee # 218947
 3 Darrell W. Spence #248011
 4 Ellis, Coleman, Poirier, LaVoie, & Steinheimer LLP
 5 555 University Avenue, Suite 200 East
 6 Sacramento, CA 95825
 7 Tel. (916) 283-8820
 8 Fax (916) 283-8821

9 George P. Eshoo - 39081
 10 Law Offices of George P. Eshoo & Associates
 11 702 Marshall Street, Suite 500
 12 Redwood City, CA 94063
 13 Tel: (650) 364-7030
 14 Fax: (650) 364-3054

15 Attorneys for Appellee/Plaintiff JOHN CHALLAS

16 **UNITED STATES DISTRICT COURT**

17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

18 In re: Stephen J.R. Goetz and Diana
 19 Goetz,

20 Debtors.

21 Chapter 11

22 Case No. C-07-06364 RMW

23 [Bankruptcy Case No. 05-57623 MM
 24 Adversary Proceeding No. 06-5197
 25 BAP No. NC-07-1418]

26 **[PROPOSED] ORDER ON APPELLEE/PLAINTIFF
 27 JOHN CHALLAS' MOTION TO DISMISS THE
 28 APPEAL BY APPELLANT/DEFENDANT STEPHEN
 GOETZ**

29 New Date: July 25, 2008

30 Time: 9:00 a.m.

31 Judge: Hon. Ronald M. Whyte

32 Courtroom: 6, 4th Fl.

33 John Challas,

34 Plaintiff,

35 v.

36 Steven Goetz, and DOES 1 through 20,
 37 Inclusive,

38 Defendants.

39 On May 14, 2008, Appellee/Plaintiff JOHN CHALLAS ("Mr. Challas") filed and served a
 40 motion to dismiss the bankruptcy appeal brought by Appellant/Defendant STEPHEN GOETZ ("Mr.
 41 Goetz"). Said motion was originally set to be heard on June 20, 2008, at 9:00 a.m., in this Court.
 42 Consequently, and pursuant to this Court's Local Rules, Rule 7.3(a), Mr. Goetz was required to file
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1 and serve his opposition to said motion, if any, not later than 21 days before the June 20, 2008 hearing
2 date, i.e., May 30, 2008. Mr. Goetz, however, did not file any opposition to Mr. Challas' motion to
3 dismiss by May 30, 2008.

4 Subsequently, on June 4, 2008, and after the May 30, 2008 due date for Mr. Goetz's opposition,
5 this Court, on its own motion, continued the June 20, 2008 hearing on Mr. Challas' motion to dismiss
6 until July 25, 2008. This Court, however, specified that "papers must still be filed in accordance with
7 the originally noticed date and the Local Rules of this court absent a court order setting a new briefing
8 schedule." This Court did not set any new briefing schedule.

9 Given these circumstances, including that Mr. Goetz did not timely oppose Mr. Challas'
10 aforementioned motion to dismiss, IT IS HEREBY ORDERED THAT:

11 Appellee/Plaintiff JOHN CHALLAS' motion to dismiss the appeal brought by
12 Appellant/Defendant STEPHEN GOETZ is hereby GRANTED. Accordingly, said appeal, in which
13 STEPHEN GOETZ is appealing the Order of the Bankruptcy Court for the Northern District of
14 California dated October 22, 2008, and entered on the Bankruptcy Court's docket on October 22, 2008,
15 is hereby DISMISSED.

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18 Dated: _____, 2008
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20 HON. RONALD M. WHYTE
21 Judge of the United States District Court for the
22 Northern District of California
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CERTIFICATE OF SERVICE

I, Nichole M. Pruitt declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 555 University Avenue, Suite 200 East, Sacramento, CA 95825.

On June 6, 2008, I served the following document(s) on the parties in the within action:

**[PROPOSED] ORDER ON APPELLEE/PLAINTIFF JOHN CHALLAS' MOTION TO
DISMISS THE APPEAL BY APPELLANT/DEFENDANT STEPHEN GOETZ**

X **VIA OVERNIGHT SERVICE:** The above-described document(s) will be delivered by overnight service, to the following:

VIA ELECTRONIC SERVICE: The above-described document(s) will be delivered electronically through the Court's ECF/PACER electronic filing system, as stipulated by all parties to constitute personal service, to the following:

Stephen Goetz
13725 Robleda Road
Los Altos, CA 94022
(Via Overnight Delivery)

Debtor In Pro Per

George P. Eshoo, Esq.
Law Offices of George P. Eshoo et al.
702 Marshall Street, Suite 500
Redwood City, CA 94063
(Via Electronic Service)

Co-Counsel for John Challas

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on June 6, 2008.

By Nichole M. Pruitt

**[PROPOSED] ORDER ON APPELLEE/PLAINTIFF JOHN CHALLAS' MOTION TO
DISMISS THE APPEAL BY APPELLANT/DEFENDANT STEPHEN GOETZ**